

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KEVIN ANTHONY TRACY,

Plaintiff,

Civil Action No. 11-15107

v.

HON. MARK A. GOLDSMITH

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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**ORDER ACCEPTING AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION, GRANTING DEFENDANT'S MOTION FOR SUMMARY  
JUDGMENT, and DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

This matter is presently before the Court on the Report and Recommendation ("R&R") of Magistrate Judge Laurie J. Michelson, entered on July 13, 2012 (Dkt. 15). Plaintiff Kevin Anthony Tracy brought suit against Defendant Commissioner of Social Security for denial of his application for disability benefits. The parties filed cross-motions for summary judgment (Dkts. 12, 13). The Magistrate Judge concluded that the finding of the Administrative Law Judge ("ALJ") that Plaintiff was not disabled prior to the expiration of his insured status was supported by substantial evidence, and thus the Magistrate Judge recommended the Court grant Defendant's motion for summary judgment and deny Plaintiff's motion for summary judgment. Specifically, the Magistrate Judge concluded that (i) the ALJ reasonably concluded that Plaintiff's headaches and restless leg syndrome were not severe and did not have a material impact on work ability; (ii) the ALJ did not err in rejecting the treating physician's opinion

where there were good reasons for doing so, and that the ALJ's residual functional capacity determination was otherwise complete and supported by substantial evidence; and (iii) the ALJ's error regarding the vocational expert testimony was harmless. No objections to the R&R have been filed and the time to do so has expired. Thus, the parties have waived any further right to appeal. Thomas v. Arn, 474 U.S. 140 (1985). However, in any case, the Court has reviewed the R&R and finds that the Magistrate Judge has reached the correct result for the correct reasons.

Accordingly, the Magistrate Judge's R&R (Dkt. 15) is accepted and adopted as the findings and conclusions of the Court. Defendant's motion for summary judgment (Dkt. 13) is granted and Plaintiff's motion for summary judgment (Dkt. 12) is denied.

SO ORDERED.

Dated: August 16, 2012  
Flint, Michigan

s/Mark A. Goldsmith  
MARK A. GOLDSMITH  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on August 16, 2012.

s/Deborah J. Goltz  
DEBORAH J. GOLTZ  
Case Manager